

AMENDED IN ASSEMBLY MARCH 13, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 140

Introduced by Assembly Member Levine

January 17, 2003

An act to amend ~~Sections 2800.1, 2800.2, and 2800.3 of Section 2800.3 of~~, and to add Section 2800.6 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 140, as amended, Levine. Vehicles: peace officers: fleeing.

(1) Existing law makes it a misdemeanor *or felony* for any person while operating a motor vehicle to intentionally evade, willfully flee, or otherwise attempt to evade a pursuing peace officer's motor vehicle or bicycle if certain conditions exist *and that conduct proximately causes death*. A violation of this provision is punishable by a specified term of imprisonment in a county jail or in state prison for 3, 4, or 5 years, or by a specified fine, or by both the fine and imprisonment.

This bill would instead make that violation *exclusively* a felony punishable by imprisonment in the state prison for ~~not less than one year nor more than 2~~ 3, 5, or 7 years *or by a specified fine, or by both the fine and imprisonment*.

(2) ~~Existing law makes it a misdemeanor, punishable by imprisonment in county jail for not more than 1 year, or a felony punishable by imprisonment in the state prison, or by a fine of not less than \$1,000 nor more than \$10,000, or by both that fine and imprisonment, for any person, while operating a motor vehicle and with the intent to evade, to willfully flee, or to otherwise attempt to evade a~~

~~pursuing peace officer's motor vehicle or bicycle if certain conditions exist and the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property.~~

~~This bill would instead make that violation a felony punishable by imprisonment in the state prison for not less than 2 years nor more than 3 years.~~

~~(3) Existing law makes it a misdemeanor or a felony for any person to willfully flee or attempt to elude a pursuing peace officer and proximately cause serious bodily injury, as defined, or death to any person. A violation of this provision is punishable by specified terms of imprisonment in the county jail or in the state prison for 3, 4, or 5 years, by specified fines, or by both the fines and imprisonment.~~

~~This bill would no longer provide that this violation is punishable as a misdemeanor.~~

~~(4) By making these violations felonies this violation exclusively a felony,~~ this bill would thereby impose a state-mandated local program.

The

(3) *The* California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 2800.1 of the Vehicle Code is amended~~
2 ~~to read:~~

3 ~~2800.1. (a) A person who, while operating a motor vehicle~~
4 ~~and with the intent to evade, willfully flees or otherwise attempts~~
5 ~~to elude a pursuing peace officer's motor vehicle, is guilty of a~~
6 ~~felony if all of the following conditions exist:~~

7 ~~(1) The peace officer's motor vehicle is exhibiting at least one~~
8 ~~lighted red lamp visible from the front and the person either sees~~
9 ~~or reasonably should have seen the lamp.~~

10 ~~(2) The peace officer's motor vehicle is sounding a siren as may~~
11 ~~be reasonably necessary.~~

12 ~~(3) The peace officer's motor vehicle is distinctively marked.~~

1 ~~(4) The peace officer's motor vehicle is operated by a peace~~
2 ~~officer, as defined in Chapter 4.5 (commencing with Section 830)~~
3 ~~of Title 3 of Part 2 of the Penal Code, and that peace officer is~~
4 ~~wearing a distinctive uniform.~~

5 ~~(b) A person who, while operating a motor vehicle and with the~~
6 ~~intent to evade, willfully flees or otherwise attempts to elude a~~
7 ~~pursuing peace officer's bicycle, is guilty of a felony if the~~
8 ~~following conditions exist:~~

9 ~~(1) The peace officer's bicycle is distinctively marked.~~

10 ~~(2) The peace officer's bicycle is operated by a peace officer,~~
11 ~~as defined in paragraph (4) of subdivision (a), and that peace~~
12 ~~officer is wearing a distinctive uniform.~~

13 ~~(3) The peace officer gives a verbal command to stop.~~

14 ~~(4) The peace officer sounds a horn that produces a sound of at~~
15 ~~least 115 decibels.~~

16 ~~(5) The peace officer gives a hand signal commanding the~~
17 ~~person to stop.~~

18 ~~(6) The person is aware or reasonably should have been aware~~
19 ~~of the verbal command, horn, and hand signal, but refuses to~~
20 ~~comply with the command to stop.~~

21 ~~(c) A person who violates this section, upon conviction, shall~~
22 ~~be punished by imprisonment in the state prison for not less than~~
23 ~~one year nor more than two years.~~

24 ~~SEC. 2. Section 2800.2 of the Vehicle Code is amended to~~
25 ~~read:~~

26 ~~2800.2. (a) If a person flees or attempts to elude a pursuing~~
27 ~~peace officer in violation of Section 2800.1 and the pursued~~
28 ~~vehicle is driven in a willful or wanton disregard for the safety of~~
29 ~~persons or property, the person driving the vehicle, upon~~
30 ~~conviction, shall be punished by imprisonment in the state prison~~
31 ~~for not less than two years nor more than three years. The court~~
32 ~~may also impose a fine of not less than one thousand dollars~~
33 ~~(\$1,000) nor more than ten thousand dollars (\$10,000), or may~~
34 ~~impose both that imprisonment and fine.~~

35 ~~(b) For purposes of this section, a willful or wanton disregard~~
36 ~~for the safety of persons or property includes, but is not limited to,~~
37 ~~driving while fleeing or attempting to elude a pursuing peace~~
38 ~~officer during which time either three or more violations that are~~
39 ~~assigned a traffic violation point count under Section 12810 occur,~~
40 ~~or damage to property occurs.~~

1 ~~SEC. 3.—~~

2 ~~SECTION 1.~~ Section 2800.3 of the Vehicle Code is amended
3 to read:

4 2800.3. Whenever willful flight or attempt to elude a pursuing
5 peace officer in violation of Section 2800.1 proximately causes
6 ~~death or~~ serious bodily injury to any person, the person driving the
7 pursued vehicle, upon conviction, shall be punished by
8 imprisonment in the state prison for three, four, or five years, *by*
9 *imprisonment in the county jail for not more than one year*; or by
10 a fine of not less than two thousand dollars (\$2,000) nor more than
11 ten thousand dollars (\$10,000), or by both that fine and
12 imprisonment.

13 For purposes of this section, “serious bodily injury” has the
14 same meaning as defined in paragraph (4) of subdivision (f) of
15 Section 243 of the Penal Code.

16 ~~SEC. 4.—~~

17 ~~SEC. 2.~~ ~~Section 2800.6 is added to the Vehicle Code, to read:~~

18 2800.6. Whenever willful flight or attempt to elude a pursuing
19 peace officer in violation of Section 2800.1 proximately causes the
20 death of a person, the person driving the pursued vehicle, upon
21 conviction, shall be punished by imprisonment in the state prison
22 for three, five, or seven years, or by a fine of not less than two
23 thousand dollars (\$2,000) nor more than ten thousand dollars
24 (\$10,000), or by both that fine and imprisonment.

25 ~~SEC. 3.~~ No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.